From:	So Kim
Sent time:	08/01/2019 11:21:53 AM
To:	Ara Mihranian
Subject:	FW: Appeal A-5-RPV-19-0051
Attachments:	Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

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From: Jill Martin [mailto:jmartin@trumpnational.com]
Sent: Thursday, August 01, 2019 11:12 AM
To: 'Zach Rehm (zach.rehm@coastal.ca.gov)' <zach.rehm@coastal.ca.gov>; So Kim <SoK@rpvca.gov>
Subject: Appeal A-5-RPV-19-0051

Dear Zach,
Please be advised that by this email VH Property Corp. is withdrawing its Special Use Permit application, thereby mooting this appeal. If you have any questions, or need anything further, please do not hesitate to contact me.

Best regards,

Jill A. Martin
Executive Vice President & Chief Compliance Counsel
The Trump Organization
c/o Trump National Golf Club Los Angeles
One Trump National Dr.
Rancho Palos Verdes, CA 90275
Tel: 310-303-3225

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

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F10a

Filed:	7/2/2019
49th Day:	9/5/2019
Staff:	A. Yee - LB
Staff Report:	7/26/2019
Hearing Date:	8/9/2019

STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE

Appeal Number:	**A-5-RPV-19-0051**
Applicant:	**VH Property Corp.**
Local Government:	City of Rancho Palos Verdes
Local Decision:	Approval with Conditions
Appellant:	Chris Pisano
Project Location:	1 Trump National Drive, Rancho Palos Verdes, Los Angeles County
Project Description:	Place an 8.5 ft. tall, 270 sq. ft. shipping container at the east end of driving range, south of an approved trail location, near a vegetated area to be used as an office for a custom golf club fitting business from September 2019 to September 2020.
Staff Recommendation:	Substantial Issue

IMPORTANT NOTE

The Commission will not take testimony on this "substantial issue" recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General or the executive director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing.

If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow at a future Commission meeting, during which it will take public testimony

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that **a substantial issue exists** with respect to the grounds on which appeal number A-5-RPV-19-0051 has been filed because the locally approved development raises issues of consistency with the City of Rancho Palos Verdes certified Local Coastal Program (LCP) and the public access and recreation policies of Chapter 3 of the Coastal Act.

The applicant proposes to place an 8.5 ft. tall, 270 sq. ft. shipping container at the east end of driving range, to be used as an office for a custom golf club fitting business from September 23, 2019 to September 23, 2020 (**Exhibit 1**). This location is south of an approved trail location, near a vegetated habitat area **(Exhibit 2)**. The City found the project to be exempt from Coastal Development Permit requirements, and instead, approved a Special Use Permit with special conditions **(Exhibit 3)** on June 5, 2019. The City-approved permit approved the placement and use of the shipping container as an office for True Spec Golf Company, which will provide custom golf clubs to patrons of the driving range at Trump National Golf club. The City's staff report indicates that this area is immediately adjacent to an approved public pedestrian and bicycle trail. The grounds for the current appeal include contentions that the approved development does not conform to the standards set forth in the certified LCP regarding protection of environmentally sensitive habitat areas (ESHA), that the area where the project is proposed should be kept free of development, and that the City's approval of the project was not consistent with the LCP.

The project is located between the first public road and the sea in Subregion 7 of the City's certified LCP jurisdiction. The City found that this project is exempt from coastal development permit requirements because it fell under a category of development determined by the Commission to be excluded from permit procedures. Staff is not aware of any Categorical Exclusion approved by the Commission pertaining to the proposed project, and none is cited by the City in its finding. Furthermore, the City did not have sufficient factual support for its determination that the proposed project would be located "outside of access ways and habitat area."

Therefore, the appeal raises substantial issues as to the City-approved project's consistency with policies of the certified LCP. The Commission should find substantial issue and hold a de novo hearing at a subsequent Commission meeting to determine whether to approve the proposed project.

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

TABLE OF CONTENTS

I. MOTION AND RESOLUTION - SUBSTANTIAL ISSUE 4
II. APPELLANT'S CONTENTIONS 4
III.LOCAL GOVERNMENT ACTION 4
IV.APPEAL PROCEDURES 5
V. FINDINGS AND DECLARATIONS 6
A. PROJECT DESCRIPTION 6
B. LCP CERTIFICATION 7
C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS 7
D. SUBSTANTIAL ISSUE ANALYSIS 7

APPENDICES

Appendix A – Substantive File Documents

LIST OF EXHIBITS

Exhibit 1 – Project rendering of True Spec Golf office

Exhibit 2 – Site plan

Exhibit 3 – Special Use Permit PLSU2019-0003, approved by the City of Rancho Palos Verdes

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

MOTION AND RESOLUTION FOR SUBSTANTIAL ISSUE

Motion *I move that the Commission determine that Appeal No. A-5-RPV-19-0051 raises **NO Substantial Issue** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

Resolution to Find Substantial Issue

*The Commission hereby finds that Appeal No. **A-5-RPV-19-0051** presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

II. APPELLANT'S CONTENTIONS

On June 10, 2019, the Commission received a notice of final local action for City of Rancho Palos Verdes Special Use Permit PLSU2019-0003 **(Exhibit 3)**. The local Special Use Permit contained a finding that the project qualified for an exemption from the local Coastal Development Permit.

On June 24, 2019, appellant Chris Pisano filed an appeal of the local action, the temporary placement of an 8.5 ft. tall, 270 sq. ft. shipping container at the east end of driving range, south of an approved trail location, near a vegetated area to be used as an office for a custom golf club fitting business from September 2019 to September 2020. The appeal contends that the project is located within an ESHA, that the area where the project is proposed should be kept free of development, and that the City erred in its finding that the project could be approved under the LCP.

III. LOCAL GOVERNMENT ACTION

On June 5, 2019, the Director of Community Development of the City of Rancho Palos Verdes administratively approved a Special Use Permit for the project, with conditions. Twelve members of the public notified the Director of their objections to the project, including the subject appellant who submitted three emails in opposition and requested a public hearing. The Director's decision was appealable to the City of Rancho Palos Verdes' Planning Commission; however no appeals were received during the local appeal period, which ended at 5:30pm on June 10, 2019.

The Coastal Commission's South Coast District Office received a Notice of Final Local Action from the City of Rancho Palos Verdes on June 10, 2019. On June 24, 2019 an appeal was filed by Chris Pisano during the Coastal Commission's ten (10) working day appeal period. No other appeals were received.

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

IV. APPEAL PROCEDURES

After certification of an LCP, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on CDPs. Development approved by cities or counties may be appealed if they are located within certain geographic appealable areas, such as those located between the sea and the first public road paralleling the sea or within 100 feet of any wetland, estuary, or stream, or within 300 feet of the mean high tide line of beach or top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not a designated "principal permitted use" under the certified LCP. Finally, any local government action on a proposed development that would constitute a major public work or a major energy facility may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

Section 30603 of the Coastal Act states:

> *(a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:*
>
> *(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
>
> *(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.*

Section 30603(a)(1) of the Coastal Act establishes the project site as being in an appealable area because it is located between the sea and the first public road paralleling the sea **(Exhibit 2).**

Grounds for Appeal

The grounds for appeal of an approved local CDP in the appealable area are stated in Section 30603(b)(1), which states:

> *(b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.*

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal. If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to the de novo public hearing on the merits of the project. The de novo hearing will be scheduled at a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that any approved project

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

The grounds for the current appeal include contentions that the approved development does not conform to the standards set forth in the certified LCP regarding protection of ESHA and that the City erred in its finding that the project could be approved under the LCP. .

Qualifications to Testify before the Commission

If the Commission, by a vote of 3 or more Commissioners, decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant(s), persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project.

V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. Project Location and Description

The subject site is located between an approved bike and pedestrian trail, and Forrestal Canyon. The site is located seaward of the first public road in the City of Rancho Palos Verdes, Los Angeles County (**Exhibit 2**). Forrestal Canyon is depicted in the LCP as both a "Natural Corridor" and a "Protection/Preservation Corridor," however the LCP also requires that a field survey coupled with historic and current aerial photographs be analyzed to validate the corridor's precise boundary. The canyon is heavily vegetated on both sides, and is identified as Coastal Sage Scrub habitat in the City's 2018 Natural Community Conservation Plan and Habitat Conservation Plan. The canyon is surrounded to the west, south, and east by the Trump National Golf Course. The project site, as proposed, is immediately east of the approved trail. On the immediate west side of the approved trail is a driving range that is part of the Trump National Golf Course. The site is accessed from Trump National Drive, which is a private road south of the first public road, Palos Verdes Drive South. Within the approved trail path, a paved service road for golf carts and pedestrians to access the driving range runs along the eastern edge of the driving range, and currently ends in a cul-de-sac. North of the cul-de-sac, the remainder of the trail path, which includes the portion fronting the proposed project site, has not yet been developed. The southern portion of the approved trail path connects to a path that leads to coastal blufftop trails, West Bluff Trail, and West Portal Trail. All of these trails are required public access and recreation features of Coastal Development Permit A-5-RPV-93-005 (approved with conditions April 15, 1993), which has been amended 19 times to modify private development and public amenities on the property (five proposed amendments have been denied by the Commission or withdrawn). The coastal development permit also requires

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

habitat areas to be set aside for open space and biological productivity and protected as such, including the habitat in and adjacent to Forrestal Canyon.

B. Local Coastal Program Certification

Rancho Palos Verdes is a shoreline community in southern Los Angeles County that incorporated as a City on September 7, 1973. On April 27, 1983, the Commission approved the City's LCP. The City's LCP is comprised of a 1978 Coastal Specific Plan and the local zoning code at the time of LCP certification, which, along with the public access and recreation policies of the Coastal Act, are the standard of review for the City-approved project.

C. Factors to be Considered in Substantial Issue Analysis

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with the certified LCP and, if applicable, the access policies of Chapter 3 of the Coastal Act. The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;

2. The extent and scope of the development as approved or denied by the local government;

3. The significance of the coastal resources affected by the decision;

4. The precedential value of the local government's decision for future interpretations of its LCP; and,

5. Whether the appeal raises local issues, or those of regional or statewide significance.

Staff is recommending that the Commission find that **a substantial issue exists** with respect to whether the local government action conforms to the habitat protection policies of the City's certified LCP and the public access and recreation policies of the Coastal Act for the reasons set forth below.

D. Substantial Issue Analysis

As stated in Section IV of this report, the local CDP may be appealed to the Commission on the grounds that the proposed development does not conform to the standards set forth in the certified Local Coastal Program (LCP) or the public access and recreation policies of the Coastal Act. Pursuant to Section 30625 of the Coastal Act, the Commission must assess whether the appeal raises a substantial issue as to the project's consistency with the certified LCP or the access policies of the Coastal Act.

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

As provided below, the City of Rancho Palos Verdes certified LCP contains policies that protect natural habitat corridors and require development adjacent to these corridors to be analyzed for potential impacts to sensitive habitat. The standard that development located adjacent to habitat be analyzed for potential impacts is similar to Section 30240 of the Coastal Act.

Relevant LCP Policies

Corridor Element

-Field Inspection to Validate Natural Corridor Boundaries (Page C-12)

…because of [Natural Corridors'] uniquely dynamic (changing) character, any attempt to provide precise measured boundaries must yield to the more generalized, but easily validated methods of field inspection coupled with historical and current aerial photography and other documenting sources.

-Erosion Potential (C-14)

Natural corridors should be protected from increased erosion potential due to increased impermeable in adjacent developed areas through development/maintenance of soil-retaining plan materials, selective placement of natural rock, and other drainage channel liners, etc.

- Compatibility of the Coastal Region with Adjacent Activity (Page C-15)

Where a Protection/Preservation Corridor is located adjacent to an area involving human use (access, habitation), some buffer area should be designed/planned/maintained so as to avoid adverse impacts.

-Site Condition Analysis (Page C-16)

It is the policy of the City to: Require development proposals within areas which might impact corridors to analyze the site conditions in order to mitigate impacts and obtain feasible implementation of all corridor guidelines.

Natural Environment Element

-CRM 9 Wildlife Habitat (Page N-44)

Existing wildlife habitats can be retained with vegetation and natural drainage patterns maintained to provide water and foraging material in the habitat. It is important to review any proposed development within or adjacent to wildlife habitat districts for the nature of the impact upon the wildlife habitat and possible mitigation measures to fully offset any impacts… Require developments within or adjacent to wildlife habitats to describe the nature of the impact upon the wildlife habitat and provide mitigation measures to fully offset the impact.

Urban Environment Element

-Coastal Access (Page U-48)

Whether road networks are held in public or private ownership is of critical concern in the coastal region. The shoreline is a public resource which could be denied through the gating or restricting of coastal roads. In order to ensure the public's right to access via roads,

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

> *existing and proposed roads should be public unless it is demonstrated to the City's satisfaction that a private road(s) would not impede public access to the shoreline.*
>
> *-RPVMC 13.10.030*
> *"Environmentally sensitive area (ESA)" means an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments (California Public Resources Code Section 30107.5).*

In its approval of a Special Use Permit for the subject project, the City found 1) that the site is adequate in size and shape to accommodate the proposed special use; 2) That the proposed special use would not adversely interfere with existing uses on the subject property, and would not impede or adversely impact pedestrian access ways and/or vehicular circulation patterns; 3) that the proposed special use would not result in significant adverse effect on adjacent property; and 4) that by requiring certain safeguard as conditions of approval, the proposed special use would not be detrimental to the public health, safety and welfare. Additionally, the City found that the project was exempt from the California Environmental Quality Act (CEQA). Lastly, the City found that the project would be temporarily located outside of access ways and habitat areas, and was therefore exempt from coastal permit procedures. The appeal raises two significant issues as to the project's conformity with the certified LCP: 1) the City's failure to evaluate or address impacts to ESHA, as required by the LCP policies, and 2) the City's improper determination that the development could be exempt from coastal permit requirements

The City-approved project includes development immediately adjacent to ESHA along Forrestal Canyon. The City's municipal code directly references the Coastal Act's definition of environmental sensitive habitat areas. The City's LCP also identifies Forrestal Canyon as both a "Natural Corridor" and a "Protection/Preservation Corridor." The City's 2018 Natural Community Conservation Plan and Habitat Conservation Plan depict Forrestal Canyon as Coastal Sage Scrub habitat. Coastal Sage Scrub habitat is described in the LCP as "the basis for habitat areas" (N-30) and that it provides "critical habitat" for fauna including coyotes, gray foxes, cactus wrens, road runners, blacktailed gnatcatchers, rufous crowned sparrows, and rock wrens; it also provides critical habitat for flora including the endemic *dudleya virens* (N-31). On page C-12 of the Corridors Element of the LCP, the City acknowledges that because of the uniquely dynamic character of Natural Corridors' vegetation and natural habitats, the precise boundaries of these corridors is impractical to define in the LCP. As such, the LCP states "it is the policy of the City to: require development proposals in areas which might impacts corridors to analyze the site conditions in order to mitigate impacts and obtain feasible implementation of all corridor guidelines" (C-16). The Natural Corridors description includes recommendations for how this analysis could be done including a site-specific study consisting of a field survey, and examination of historic and current aerial photographs to determine the limits of the habitat corridor with respect to a prospective project site. The City's record contains no evidence that a field survey or aerial photographs were examined in relation to this project. The City's action to approve development in the specific location is also inconsistent with the LCP policy requiring that, "where a Protection/Preservation Corridor is located adjacent to an area involving human use (access, habitation), some buffer area should be designed/planned/maintained so as to avoid adverse impacts." There is no evidence that the applicant proposed or that the City required any buffer between the development and the adjacent habitat area. Nor is there adequate information in the record to determine that the location

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

of the development provides an adequate buffer around sensitive habitat. Therefore, the action raises a substantial issue as to conformance with LCP policies requiring studies for development adjacent to natural corridors and Protection/Preservation Corridors, as well as buffers around such areas.

The City's record indicates that on April 24, 2019 the City sent an incomplete letter to the applicant requesting, among other items, "a site plan at a smaller scale to show the location of the proposed trailer… include[ing] the north boundary along PVDS and west boundary along the PBC community. Please also provide setbacks to the north as [sic] west property lines." The only site plan in the record is the one attached to the staff report, which is drawn at a 1" = 100' scale. The scale of this site plan makes it impossible to understand the project footprint's relationship to the property line, setback lines, natural habitat, or the boundaries of the bicycle/pedestrian trail because the 270 sq. ft. project is depicted as a small rectangle on the large, 261 acre property. The staff report provides only a red star superimposed on a photograph of the area, to represent the "approximate location of the container." The lack of a more precise site plan, of appropriate scale, depicting the footprint of the proposed project and any accessory development, in relation to the surrounding property lines and access ways raises substantial issue as to whether the City's approval of the project is consistent with certified policies in the LCP relating to protection of sensitive habitat areas.

The City of Rancho Palos Verdes granted approval of a Special Use Permit for the project that included findings that the project was categorically excluded from the requirements of a Coastal Development Permit under Rancho Palos Verdes Municipal Code (RPVMC) §17.72.050, which includes an exemption for categories of development which have been determined by the Coastal Commission to have no potential for any significant local impact on coastal resources or public access, in addition to other types of exempt development. The City's staff report states: "the Coastal Commission reviewed the proposed project and agreed that the project could be exempt, provided that the proposed shipping container is not placed on a trail or within a natural habitat area, and is temporary." Categorical exclusions can be granted by an affirmative vote of two-thirds of the Coastal Commission, pursuant to Section 30610(e) of the Coastal Act. The City failed to cite any categorical exclusion approved by the Commission, and Commission staff is not aware of any categorical exclusion that would apply to the proposed project. The City's findings incorrectly characterize Commission staff's email as an action of the Coastal Commission.

In addition, Special Condition 7(g) of the underlying CDP for the golf course (A-5-RPV-93-005) requires the applicant to obtain a coastal development permit for any development located in ESHA. As noted previously, there is no evidence in the City's record indicating that a field survey or biological assessment was conducted for the subject project to confirm or dispute the presence of ESHA on or adjacent to the project site, and there is insufficient evidence in the record to identify the project's impacts on sensitive habitat areas. Thus, there is a substantial issue as to whether a CDP was required for the City-approved development and, hence, whether the project conforms to the certified LCP (as implemented through the CDP).[1]

[1] The City has previously approved development on this site as exempt from the requirement to obtain a CDP, despite potential impacts to ESHA. In 2015, the City issued an exemption for removal of two artificial waterfalls on the golf course site (approximately 1,000 feet from the subject project), which the applicant carried out, resulting in the temporary disruption of 5,700 square feet of sensitive habitat. Coastal Commission Enforcement Staff issued Notice of Violation V-5-15-0063 on June 2015 and the violation was resolved through an amendment to the underlying coastal

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

City staff contacted Commission staff to discuss the potential location of the project, and Commission staff provided informal feedback by phone and by email on May 3, 2019. Commission staff advised the City of the proposed development's proximity to ESHA (and the public trails) and referenced the conditions of the underlying permit, and requested additional information to determine the precise location of the development, but no such information was provided to Commission staff. Regardless of any informal discussions between City staff and Commission staff during the City's review of the project, the project as approved by the City may not be consistent with the underlying coastal development permit for the golf course and, hence, the certified LCP, as there is insufficient information in the record to determine whether the development would be in ESHA. Therefore, the appeal raises a substantial issue as to whether the City-approved project is consistent with the certified LCP.

Applying the five factors listed in the prior section clarifies that the appeal raises a "substantial issue" as to the project's conformity with the certified LCP.

The first factor is the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the certified LCP. There is no evidence in the record that the City required or performed a site survey, or reviewed historic or current aerial photographs to determine the precise ESHA boundary. Nor did the City have a properly scaled site plan to determine whether the proposed project could provide adequate buffers to ESHA, and that it would not encroach onto public access ways or habitat. Lastly, there is insufficient legal support for the City's determination that the project is exempt development, in light of the potential impacts to ESHA. Together, the record indicates a significant lack of factual and legal support for the City's approval of the project.

The second factor is the extent and scope of the development as approved by the local government. In terms of size, the scope of the proposed new development (a 8.5 ft. tall, 270 sq. ft. shipping container) relative to traditional brick-and-mortar development may not initially appear to be significant. But considering the context of its location, the extent and scope of the development are significant because of its proximity to ESHA and a public access way. The proposed development would also stand out against surrounding area because there are also no other buildings in the vicinity. The primary LCP issues raised by how the City reviews and approves development in such locations is also significant in extent and scope.

The third factor is the significance of the coastal resources affected by the decision. Section 30240 of the Coastal Act sets high standards to protect ESHA, standards which are incorporated into the City's LCP as requirements to prepare a site-specific survey, identify and necessary mitigation, and impose adequate buffers around sensitive areas, which were not explored or required by the City in this case.

development permit (A-5-RPV-93-005-A24) in November 2016, which provided habitat restoration at a 10:1 ratio at a nearby site on the property. Thus, the City and the property owner are aware that development at this site that impacts ESHA requires a CDP.

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. The City's decision, if allowed to stand, would be highly precedential for future interpretations of the City's LCP. Allowing the City to approve development that potentially encroaches upon or near environmental sensitive habitat areas without requiring a CDP or site-specific review or adequate buffers could be relied on to allow future development proposals that ultimately harm sensitive areas due to inadequate review of the project's impacts on such areas. In addition, allowing the subject project to be exempted from the requirement to obtain a coastal development permit despite potential impacts to ESHA would set an adverse precedent for interpretation of the subject LCP. The proposed development does not qualify as exempt development, and should not be relied on in future cases to justify exempting other development in ESHA from coastal development permitting requirements in Rancho Palos Verdes, which could result in cumulative adverse impacts to coastal resources.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. This appeal raises both local issues pertaining to natural habitat on the Palos Verdes peninsula, as well as more regional and statewide issues of concern related to protection of ESHA, and the potential for local jurisdictions to weaken ESHA protections that are central to the statute by not applying LCP policies requiring site-specific study of proposed development adjacent to ESHA or adequate buffers and mitigation measures. Accordingly, the appellant's contentions raise concerns about the future interpretation of the LCP and Coastal Act compliance. Therefore, the appeal is both precedential and raises issues of statewide significance.

For the reasons stated above, the appeal raises a substantial issue with respect to the grounds on which it has been filed because the locally approved development raises issues of consistency with the certified City of Rancho Palos Verdes LCP.

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS:

1. City of Rancho Palos Verdes Local Coastal Program (certified April 27, 1983)
2. City of Rancho Palos Verdes Natural Community Conservation Plan and Habitat Conservation Plan (dated March 2018)
3. Coastal Development permit A-5-RPV-93-005 (VH Property Corp.), as amended

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

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The Commission will not take testimony on this "substantial issue" recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General or the executive director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing.

If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow at a future Commission meeting, during which it will take public testimony

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that **a substantial issue exists** with respect to the grounds on which appeal number A-5-RPV-19-0051 has been filed because the locally approved development raises issues of consistency with the City of Rancho Palos Verdes certified Local Coastal Program (LCP) and the public access and recreation policies of Chapter 3 of the Coastal Act.

The applicant proposes to place an 8.5 ft. tall, 270 sq. ft. shipping container at the east end of driving range, to be used as an office for a custom golf club fitting business from September 23, 2019 to September 23, 2020 (**Exhibit 1**). This location is south of an approved trail location, near a vegetated habitat area **(Exhibit 2)**. The City found the project to be exempt from Coastal Development Permit requirements, and instead, approved a Special Use Permit with special conditions **(Exhibit 3)** on June 5, 2019. The City-approved permit approved the placement and use of the shipping container as an office for True Spec Golf Company, which will provide custom golf clubs to patrons of the driving range at Trump National Golf club. The City's staff report indicates that this area is immediately adjacent to an approved public pedestrian and bicycle trail. The grounds for the current appeal include contentions that the approved development does not conform to the standards set forth in the certified LCP regarding protection of environmentally sensitive habitat areas (ESHA), that the area where the project is proposed should be kept free of development, and that the City's approval of the project was not consistent with the LCP.

The project is located between the first public road and the sea in Subregion 7 of the City's certified LCP jurisdiction. The City found that this project is exempt from coastal development permit requirements because it fell under a category of development determined by the Commission to be excluded from permit procedures. Staff is not aware of any Categorical Exclusion approved by the Commission pertaining to the proposed project, and none is cited by the City in its finding. Furthermore, the City did not have sufficient factual support for its determination that the proposed project would be located "outside of access ways and habitat area."

Therefore, the appeal raises substantial issues as to the City-approved project's consistency with policies of the certified LCP. The Commission should find substantial issue and hold a de novo hearing at a subsequent Commission meeting to determine whether to approve the proposed project.

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

TABLE OF CONTENTS

I. MOTION AND RESOLUTION - SUBSTANTIAL ISSUE 4
II. APPELLANT'S CONTENTIONS 4
III.LOCAL GOVERNMENT ACTION 4
IV.APPEAL PROCEDURES 5
V. FINDINGS AND DECLARATIONS 6
A. PROJECT DESCRIPTION 6
B. LCP CERTIFICATION 7
C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS 7
D. SUBSTANTIAL ISSUE ANALYSIS 7

APPENDICES

Appendix A – Substantive File Documents

LIST OF EXHIBITS

Exhibit 1 – Project rendering of True Spec Golf office

Exhibit 2 – Site plan

Exhibit 3 – Special Use Permit PLSU2019-0003, approved by the City of Rancho Palos Verdes

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

MOTION AND RESOLUTION FOR SUBSTANTIAL ISSUE

Motion *I move that the Commission determine that Appeal No. A-5-RPV-19-0051 raises **NO Substantial Issue** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

Resolution to Find Substantial Issue

*The Commission hereby finds that Appeal No. **A-5-RPV-19-0051** presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

II. APPELLANT'S CONTENTIONS

On June 10, 2019, the Commission received a notice of final local action for City of Rancho Palos Verdes Special Use Permit PLSU2019-0003 **(Exhibit 3)**. The local Special Use Permit contained a finding that the project qualified for an exemption from the local Coastal Development Permit.

On June 24, 2019, appellant Chris Pisano filed an appeal of the local action, the temporary placement of an 8.5 ft. tall, 270 sq. ft. shipping container at the east end of driving range, south of an approved trail location, near a vegetated area to be used as an office for a custom golf club fitting business from September 2019 to September 2020. The appeal contends that the project is located within an ESHA, that the area where the project is proposed should be kept free of development, and that the City erred in its finding that the project could be approved under the LCP.

III. LOCAL GOVERNMENT ACTION

On June 5, 2019, the Director of Community Development of the City of Rancho Palos Verdes administratively approved a Special Use Permit for the project, with conditions. Twelve members of the public notified the Director of their objections to the project, including the subject appellant who submitted three emails in opposition and requested a public hearing. The Director's decision was appealable to the City of Rancho Palos Verdes' Planning Commission; however no appeals were received during the local appeal period, which ended at 5:30pm on June 10, 2019.

The Coastal Commission's South Coast District Office received a Notice of Final Local Action from the City of Rancho Palos Verdes on June 10, 2019. On June 24, 2019 an appeal was filed by Chris Pisano during the Coastal Commission's ten (10) working day appeal period. No other appeals were received.

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

IV. APPEAL PROCEDURES

After certification of an LCP, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on CDPs. Development approved by cities or counties may be appealed if they are located within certain geographic appealable areas, such as those located between the sea and the first public road paralleling the sea or within 100 feet of any wetland, estuary, or stream, or within 300 feet of the mean high tide line of beach or top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not a designated "principal permitted use" under the certified LCP. Finally, any local government action on a proposed development that would constitute a major public work or a major energy facility may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

Section 30603 of the Coastal Act states:

> *(a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:*
>
> *(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
>
> *(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.*

Section 30603(a)(1) of the Coastal Act establishes the project site as being in an appealable area because it is located between the sea and the first public road paralleling the sea **(Exhibit 2).**

Grounds for Appeal

The grounds for appeal of an approved local CDP in the appealable area are stated in Section 30603(b)(1), which states:

> *(b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.*

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal. If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to the de novo public hearing on the merits of the project. The de novo hearing will be scheduled at a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that any approved project

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

The grounds for the current appeal include contentions that the approved development does not conform to the standards set forth in the certified LCP regarding protection of ESHA and that the City erred in its finding that the project could be approved under the LCP. .

Qualifications to Testify before the Commission

If the Commission, by a vote of 3 or more Commissioners, decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant(s), persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project.

V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. Project Location and Description

The subject site is located between an approved bike and pedestrian trail, and Forrestal Canyon. The site is located seaward of the first public road in the City of Rancho Palos Verdes, Los Angeles County (**Exhibit 2**). Forrestal Canyon is depicted in the LCP as both a "Natural Corridor" and a "Protection/Preservation Corridor," however the LCP also requires that a field survey coupled with historic and current aerial photographs be analyzed to validate the corridor's precise boundary. The canyon is heavily vegetated on both sides, and is identified as Coastal Sage Scrub habitat in the City's 2018 Natural Community Conservation Plan and Habitat Conservation Plan. The canyon is surrounded to the west, south, and east by the Trump National Golf Course. The project site, as proposed, is immediately east of the approved trail. On the immediate west side of the approved trail is a driving range that is part of the Trump National Golf Course. The site is accessed from Trump National Drive, which is a private road south of the first public road, Palos Verdes Drive South. Within the approved trail path, a paved service road for golf carts and pedestrians to access the driving range runs along the eastern edge of the driving range, and currently ends in a cul-de-sac. North of the cul-de-sac, the remainder of the trail path, which includes the portion fronting the proposed project site, has not yet been developed. The southern portion of the approved trail path connects to a path that leads to coastal blufftop trails, West Bluff Trail, and West Portal Trail. All of these trails are required public access and recreation features of Coastal Development Permit A-5-RPV-93-005 (approved with conditions April 15, 1993), which has been amended 19 times to modify private development and public amenities on the property (five proposed amendments have been denied by the Commission or withdrawn). The coastal development permit also requires

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

habitat areas to be set aside for open space and biological productivity and protected as such, including the habitat in and adjacent to Forrestal Canyon.

B. Local Coastal Program Certification

Rancho Palos Verdes is a shoreline community in southern Los Angeles County that incorporated as a City on September 7, 1973. On April 27, 1983, the Commission approved the City's LCP. The City's LCP is comprised of a 1978 Coastal Specific Plan and the local zoning code at the time of LCP certification, which, along with the public access and recreation policies of the Coastal Act, are the standard of review for the City-approved project.

C. Factors to be Considered in Substantial Issue Analysis

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with the certified LCP and, if applicable, the access policies of Chapter 3 of the Coastal Act. The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;

2. The extent and scope of the development as approved or denied by the local government;

3. The significance of the coastal resources affected by the decision;

4. The precedential value of the local government's decision for future interpretations of its LCP; and,

5. Whether the appeal raises local issues, or those of regional or statewide significance.

Staff is recommending that the Commission find that **a substantial issue exists** with respect to whether the local government action conforms to the habitat protection policies of the City's certified LCP and the public access and recreation policies of the Coastal Act for the reasons set forth below.

D. Substantial Issue Analysis

As stated in Section IV of this report, the local CDP may be appealed to the Commission on the grounds that the proposed development does not conform to the standards set forth in the certified Local Coastal Program (LCP) or the public access and recreation policies of the Coastal Act. Pursuant to Section 30625 of the Coastal Act, the Commission must assess whether the appeal raises a substantial issue as to the project's consistency with the certified LCP or the access policies of the Coastal Act.

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

As provided below, the City of Rancho Palos Verdes certified LCP contains policies that protect natural habitat corridors and require development adjacent to these corridors to be analyzed for potential impacts to sensitive habitat. The standard that development located adjacent to habitat be analyzed for potential impacts is similar to Section 30240 of the Coastal Act.

Relevant LCP Policies

Corridor Element

-Field Inspection to Validate Natural Corridor Boundaries (Page C-12)

…because of [Natural Corridors'] uniquely dynamic (changing) character, any attempt to provide precise measured boundaries must yield to the more generalized, but easily validated methods of field inspection coupled with historical and current aerial photography and other documenting sources.

-Erosion Potential (C-14)

Natural corridors should be protected from increased erosion potential due to increased impermeable in adjacent developed areas through development/maintenance of soil-retaining plan materials, selective placement of natural rock, and other drainage channel liners, etc.

- Compatibility of the Coastal Region with Adjacent Activity (Page C-15)

Where a Protection/Preservation Corridor is located adjacent to an area involving human use (access, habitation), some buffer area should be designed/planned/maintained so as to avoid adverse impacts.

-Site Condition Analysis (Page C-16)

It is the policy of the City to: Require development proposals within areas which might impact corridors to analyze the site conditions in order to mitigate impacts and obtain feasible implementation of all corridor guidelines.

Natural Environment Element

-CRM 9 Wildlife Habitat (Page N-44)

Existing wildlife habitats can be retained with vegetation and natural drainage patterns maintained to provide water and foraging material in the habitat. It is important to review any proposed development within or adjacent to wildlife habitat districts for the nature of the impact upon the wildlife habitat and possible mitigation measures to fully offset any impacts… Require developments within or adjacent to wildlife habitats to describe the nature of the impact upon the wildlife habitat and provide mitigation measures to fully offset the impact.

Urban Environment Element

-Coastal Access (Page U-48)

Whether road networks are held in public or private ownership is of critical concern in the coastal region. The shoreline is a public resource which could be denied through the gating or restricting of coastal roads. In order to ensure the public's right to access via roads,

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

> *existing and proposed roads should be public unless it is demonstrated to the City's satisfaction that a private road(s) would not impede public access to the shoreline.*
>
> *-RPVMC 13.10.030*
> *"Environmentally sensitive area (ESA)" means an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments (California Public Resources Code Section 30107.5).*

In its approval of a Special Use Permit for the subject project, the City found 1) that the site is adequate in size and shape to accommodate the proposed special use; 2) That the proposed special use would not adversely interfere with existing uses on the subject property, and would not impede or adversely impact pedestrian access ways and/or vehicular circulation patterns; 3) that the proposed special use would not result in significant adverse effect on adjacent property; and 4) that by requiring certain safeguard as conditions of approval, the proposed special use would not be detrimental to the public health, safety and welfare. Additionally, the City found that the project was exempt from the California Environmental Quality Act (CEQA). Lastly, the City found that the project would be temporarily located outside of access ways and habitat areas, and was therefore exempt from coastal permit procedures. The appeal raises two significant issues as to the project's conformity with the certified LCP: 1) the City's failure to evaluate or address impacts to ESHA, as required by the LCP policies, and 2) the City's improper determination that the development could be exempt from coastal permit requirements

The City-approved project includes development immediately adjacent to ESHA along Forrestal Canyon. The City's municipal code directly references the Coastal Act's definition of environmental sensitive habitat areas. The City's LCP also identifies Forrestal Canyon as both a "Natural Corridor" and a "Protection/Preservation Corridor." The City's 2018 Natural Community Conservation Plan and Habitat Conservation Plan depict Forrestal Canyon as Coastal Sage Scrub habitat. Coastal Sage Scrub habitat is described in the LCP as "the basis for habitat areas" (N-30) and that it provides "critical habitat" for fauna including coyotes, gray foxes, cactus wrens, road runners, blacktailed gnatcatchers, rufous crowned sparrows, and rock wrens; it also provides critical habitat for flora including the endemic *dudleya virens* (N-31). On page C-12 of the Corridors Element of the LCP, the City acknowledges that because of the uniquely dynamic character of Natural Corridors' vegetation and natural habitats, the precise boundaries of these corridors is impractical to define in the LCP. As such, the LCP states "it is the policy of the City to: require development proposals in areas which might impacts corridors to analyze the site conditions in order to mitigate impacts and obtain feasible implementation of all corridor guidelines" (C-16). The Natural Corridors description includes recommendations for how this analysis could be done including a site-specific study consisting of a field survey, and examination of historic and current aerial photographs to determine the limits of the habitat corridor with respect to a prospective project site. The City's record contains no evidence that a field survey or aerial photographs were examined in relation to this project. The City's action to approve development in the specific location is also inconsistent with the LCP policy requiring that, "where a Protection/Preservation Corridor is located adjacent to an area involving human use (access, habitation), some buffer area should be designed/planned/maintained so as to avoid adverse impacts." There is no evidence that the applicant proposed or that the City required any buffer between the development and the adjacent habitat area. Nor is there adequate information in the record to determine that the location

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

of the development provides an adequate buffer around sensitive habitat. Therefore, the action raises a substantial issue as to conformance with LCP policies requiring studies for development adjacent to natural corridors and Protection/Preservation Corridors, as well as buffers around such areas.

The City's record indicates that on April 24, 2019 the City sent an incomplete letter to the applicant requesting, among other items, "a site plan at a smaller scale to show the location of the proposed trailer… include[ing] the north boundary along PVDS and west boundary along the PBC community. Please also provide setbacks to the north as [sic] west property lines." The only site plan in the record is the one attached to the staff report, which is drawn at a 1" = 100' scale. The scale of this site plan makes it impossible to understand the project footprint's relationship to the property line, setback lines, natural habitat, or the boundaries of the bicycle/pedestrian trail because the 270 sq. ft. project is depicted as a small rectangle on the large, 261 acre property. The staff report provides only a red star superimposed on a photograph of the area, to represent the "approximate location of the container." The lack of a more precise site plan, of appropriate scale, depicting the footprint of the proposed project and any accessory development, in relation to the surrounding property lines and access ways raises substantial issue as to whether the City's approval of the project is consistent with certified policies in the LCP relating to protection of sensitive habitat areas.

The City of Rancho Palos Verdes granted approval of a Special Use Permit for the project that included findings that the project was categorically excluded from the requirements of a Coastal Development Permit under Rancho Palos Verdes Municipal Code (RPVMC) §17.72.050, which includes an exemption for categories of development which have been determined by the Coastal Commission to have no potential for any significant local impact on coastal resources or public access, in addition to other types of exempt development. The City's staff report states: "the Coastal Commission reviewed the proposed project and agreed that the project could be exempt, provided that the proposed shipping container is not placed on a trail or within a natural habitat area, and is temporary." Categorical exclusions can be granted by an affirmative vote of two-thirds of the Coastal Commission, pursuant to Section 30610(e) of the Coastal Act. The City failed to cite any categorical exclusion approved by the Commission, and Commission staff is not aware of any categorical exclusion that would apply to the proposed project. The City's findings incorrectly characterize Commission staff's email as an action of the Coastal Commission.

In addition, Special Condition 7(g) of the underlying CDP for the golf course (A-5-RPV-93-005) requires the applicant to obtain a coastal development permit for any development located in ESHA. As noted previously, there is no evidence in the City's record indicating that a field survey or biological assessment was conducted for the subject project to confirm or dispute the presence of ESHA on or adjacent to the project site, and there is insufficient evidence in the record to identify the project's impacts on sensitive habitat areas. Thus, there is a substantial issue as to whether a CDP was required for the City-approved development and, hence, whether the project conforms to the certified LCP (as implemented through the CDP).[1]

[1] The City has previously approved development on this site as exempt from the requirement to obtain a CDP, despite potential impacts to ESHA. In 2015, the City issued an exemption for removal of two artificial waterfalls on the golf course site (approximately 1,000 feet from the subject project), which the applicant carried out, resulting in the temporary disruption of 5,700 square feet of sensitive habitat. Coastal Commission Enforcement Staff issued Notice of Violation V-5-15-0063 on June 2015 and the violation was resolved through an amendment to the underlying coastal

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

City staff contacted Commission staff to discuss the potential location of the project, and Commission staff provided informal feedback by phone and by email on May 3, 2019. Commission staff advised the City of the proposed development's proximity to ESHA (and the public trails) and referenced the conditions of the underlying permit, and requested additional information to determine the precise location of the development, but no such information was provided to Commission staff. Regardless of any informal discussions between City staff and Commission staff during the City's review of the project, the project as approved by the City may not be consistent with the underlying coastal development permit for the golf course and, hence, the certified LCP, as there is insufficient information in the record to determine whether the development would be in ESHA. Therefore, the appeal raises a substantial issue as to whether the City-approved project is consistent with the certified LCP.

Applying the five factors listed in the prior section clarifies that the appeal raises a "substantial issue" as to the project's conformity with the certified LCP.

The first factor is the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the certified LCP. There is no evidence in the record that the City required or performed a site survey, or reviewed historic or current aerial photographs to determine the precise ESHA boundary. Nor did the City have a properly scaled site plan to determine whether the proposed project could provide adequate buffers to ESHA, and that it would not encroach onto public access ways or habitat. Lastly, there is insufficient legal support for the City's determination that the project is exempt development, in light of the potential impacts to ESHA. Together, the record indicates a significant lack of factual and legal support for the City's approval of the project.

The second factor is the extent and scope of the development as approved by the local government. In terms of size, the scope of the proposed new development (a 8.5 ft. tall, 270 sq. ft. shipping container) relative to traditional brick-and-mortar development may not initially appear to be significant. But considering the context of its location, the extent and scope of the development are significant because of its proximity to ESHA and a public access way. The proposed development would also stand out against surrounding area because there are also no other buildings in the vicinity. The primary LCP issues raised by how the City reviews and approves development in such locations is also significant in extent and scope.

The third factor is the significance of the coastal resources affected by the decision. Section 30240 of the Coastal Act sets high standards to protect ESHA, standards which are incorporated into the City's LCP as requirements to prepare a site-specific survey, identify and necessary mitigation, and impose adequate buffers around sensitive areas, which were not explored or required by the City in this case.

development permit (A-5-RPV-93-005-A24) in November 2016, which provided habitat restoration at a 10:1 ratio at a nearby site on the property. Thus, the City and the property owner are aware that development at this site that impacts ESHA requires a CDP.

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. The City's decision, if allowed to stand, would be highly precedential for future interpretations of the City's LCP. Allowing the City to approve development that potentially encroaches upon or near environmental sensitive habitat areas without requiring a CDP or site-specific review or adequate buffers could be relied on to allow future development proposals that ultimately harm sensitive areas due to inadequate review of the project's impacts on such areas. In addition, allowing the subject project to be exempted from the requirement to obtain a coastal development permit despite potential impacts to ESHA would set an adverse precedent for interpretation of the subject LCP. The proposed development does not qualify as exempt development, and should not be relied on in future cases to justify exempting other development in ESHA from coastal development permitting requirements in Rancho Palos Verdes, which could result in cumulative adverse impacts to coastal resources.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. This appeal raises both local issues pertaining to natural habitat on the Palos Verdes peninsula, as well as more regional and statewide issues of concern related to protection of ESHA, and the potential for local jurisdictions to weaken ESHA protections that are central to the statute by not applying LCP policies requiring site-specific study of proposed development adjacent to ESHA or adequate buffers and mitigation measures. Accordingly, the appellant's contentions raise concerns about the future interpretation of the LCP and Coastal Act compliance. Therefore, the appeal is both precedential and raises issues of statewide significance.

For the reasons stated above, the appeal raises a substantial issue with respect to the grounds on which it has been filed because the locally approved development raises issues of consistency with the certified City of Rancho Palos Verdes LCP.

Coastal Appeal Report (8-9-2019) F10a-8-2019-report.pdf

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS:

1. City of Rancho Palos Verdes Local Coastal Program (certified April 27, 1983)
2. City of Rancho Palos Verdes Natural Community Conservation Plan and Habitat Conservation Plan (dated March 2018)
3. Coastal Development permit A-5-RPV-93-005 (VH Property Corp.), as amended